

Message Text

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TO AMEMBASSY MASERU

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C O N F I D E N T I A L STATE 301393

E.O. 11652:GDS

TAGS: SHUM, MASS, SU

SUBJECT: CLEARANCE OF DRAFT HUMAN RIGHTS OBSERVANCE REPORT

REF: STATE 231122

1. SECTION 5028 OF THE FOREIGN ASSISTANCE ACT OF 1961 AS AMENDED BY THE INTERNATIONAL SECURITY ASSISTANCE ACT AND ARMS EXPORT CONTROL ACT OF 1976 STATES IN PARAGRAPH 502B(8) THAT THE "SECRETARY OF STATE SHALL TRANSMIT TO THE CONGRESS, AS PART OF THE PRESENTATION MATERIALS FOR SECURITY ASSISTANCE PROGRAMS PROPOSED FOR EACH YEAR, A FULL AND COMPLETE REPORT...WITH RESPECT TO PRACTICES REGARDING THE OBSERVANCES OF AND RESPECT FOR INTERNATIONALLY RECOGNIZED HUMAN RIGHTS IN EACH COUNTRY PROPOSED AS A RECIPIENT OF SECURITY ASSISTANCE". PARAGRAPH (D) (2) OF SECTION 502B AS AMENDED DEFINES "SECURITY ASSISTANCE" TO INCLUDE SECURITY SUPPORTING ASSISTANCE, FMS, CERTAIN COMMERCIAL SALES, CREDITS AND OTHER PROGRAMS. THE FULL TEXT OF THE AMENDED SECTION 502B WAS TRANSMITTED BY THE REFTEL. LESOTHO MAY BE PROPOSED AS A SECURITY SUPPORTING ASSISTANCE RECIPIENT FOR FY 78.

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2. AS INDICATED IN THE REFTEL, THE DEPARTMENT HAS BEEN

COLLECTING AND PREPARING INFORMATION ON THE HUMAN RIGHTS

SITUATIONS IN SECURITY ASSISTANCE RECIPIENT COUNTRIES IN ANTICIPATION OF SUBMITTING IT TO CONGRESS EARLY NEXT YEAR AS PART OF THE CONGRESSIONAL PRESENTATION DOCUMENT (CPO) ON SECURITY ASSISTANCE. HUMAN RIGHTS REPORTING FROM OVERSEAS POSTS, INFORMATION FROM NON-GOVERNMENTAL ORGANIZATIONS SUCH AS THE INTERNATIONAL COMMISSION OF JURISTS, AMNESTY INTERNATIONAL AND FREEDOM HOUSE, REPORTS BY INTERNATIONAL ORGANIZATIONS AND CONGRESSIONAL HEARINGS ON HUMAN RIGHTS HAVE BEEN COMPILED IN A DRAFT HUMAN RIGHTS OBSERVANCE REPORT ON EACH SECURITY ASSISTANCE RECIPIENT COUNTRY. THE DRAFT REPORT ON LESOTHO BEGINS AT PARA 7.

3. THE DRAFT REPORT FOLLOWS A STANDARD FORMAT CALLING FOR A DESCRIPTION OF THE POLITICAL AND LEGAL SITUATION IN THE COUNTRY, A DESCRIPTIVE STATEMENT OF ACTUAL OBSERVANCE OF RIGHTS AND FREEDOMS IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WITH SPECIFIC ATTENTION TO MATTERS SPECIFIED IN THE INCLUSION CLAUSE OF PARAGRAPH (D)(1) OF SECTION 502B AS AMENDED, AND A REFLECTION OF OTHER HUMAN RIGHTS REPORTING. THE TEXT OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WAS TRANSMITTED TO THE FIELD AS AN ENCLOSURE TO 75 STATE A-1045.

4. THE DRAFT REPORT HAS BEEN PARTIALLY CLEARED IN THE DEPARTMENT AND IS BEING USED INTERNALLY IN THE CURRENT REVIEW OF PROPOSED PROGRAMS FOR FY 1978. BEFORE FINAL CLEARANCE IN THE DEPARTMENT CAN BE OBTAINED FOR THE DRAFT REPORT'S INCLUSION IN THE CPD AS AN UNCLASSIFIED DOCUMENT (WHICH MAY BE PUBLICLY DISCLOSED IF CONGRESS SO CHOOSES), THE DEPARTMENT REQUESTS THE EMBASSY TO CAREFULLY REVIEW, CORRECT, UPDATE AND CLEAR THE DRAFT. (UNTIL THE DRAFT IS CLEARED FOR RELEASE, HOWEVER, IT REMAINS A WORKING DOCUMENT CLASSIFIED CONFIDENTIAL UNDER THE PROVISIONS OF EXECUTIVE ORDER 11652.)

5. IN CONDUCTING ITS REVIEW, THE EMBASSY SHOULD ENSURE THAT THE INFORMATION IN THE DRAFT CONSTITUTES A "FULL CONFIDENTIAL

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AND COMPLETE REPORT--WITH RESPECT TO PRACTICES REGARDING THE OBSERVANCE OF HUMAN RIGHTS" IN LESOTHO, AS REQUIRED IN SECTION 5028 (B) AS AMENDED.

6. REQUESTED ACTION: THE EMBASSY IS REQUESTED TO REVIEW THE ENCLOSED DRAFT AND PROVIDE COMMENTS, SUGGESTED REVISIONS, UPDATING INFORMATION, ADDITIONAL INFORMATION IN SATISFACTION OF THE REQUIREMENTS OF SECTION 502B (B)

AS AMENDED, AND CLEARANCE BY TELEGRAM TO REACH THE DEPARTMENT NO LATER THAN DECEMBER 14.

7. TEXT OF DRAFT REPORT IS AS FOLLOWS:

LESOTHO

I. POLITICAL SITUATION - LESOTHO ACHIEVED FULL INDEPENDENCE FROM THE BRITISH IN 1966 AS A CONSTITUTIONAL MONARCHY. THE ONLY COUNTRY IN THE WORLD SURROUNDED BY ANOTHER COUNTRY, LESOTHO IS SENSITIVE TO POLITICAL AND ECONOMIC DEVELOPMENTS IN SOUTH AFRICA.

IN 1970 PRIME MINISTER LEABUA JONATHAN SUSPENDED THE CONSTITUTION AND PARLIAMENT, NULLIFIED ELECTIONS, DECLARED A STATE OF EMERGENCY, AND HAS SINCE RULED BY DECREE. HIS ACTIONS FOLLOWED JANUARY 1970 ELECTIONS, THE FIRST SINCE INDEPENDENCE, WHEN IT APPEARED THAT HIS GOVERNING PARTY MIGHT NOT REMAIN IN POWER. A PERIOD OF VIOLENCE FOLLOWED THE 1970 POLITICAL EVENTS IN WHICH ABOUT 100 PERSONS REPORTEDLY LOST THEIR LIVES AND AN ESTIMATED 350 PEOPLE WERE DETAINED. OTHER VIOLENT INCIDENTS FOLLOWED AN ABORTIVE JANUARY 1974 ATTEMPTED COUP.

II. LEGAL SITUATION - WITH ITS CONSTITUTION SUSPENDED AND NO WRITTEN BILL OF RIGHTS LESOTHO LACKS BASIC LEGAL GUARANTEES OF HUMAN RIGHTS. THE JUDICIARY REMAINS INDEPENDENT BUT IT DOES NOT HAVE THE POWER IN ALL CASES TO ENSURE THAT JUSTICE IS DONE. THE PREPARATION OF A NEW CONSTITUTION IS UNDER DISCUSSION.

THE INTERNAL SECURITY ACT OF 1974 PROVIDES FOR DETENTION WITHOUT CHARGE FOR UP TO 60 DAYS. WHILE NO DETAINEES
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ARE PRESENTLY KNOWN TO BE HELD UNDER THIS PROVISION OF LAW, IT HAS BEEN USED TO EFFECTIVELY HOLD PERSONS BEYOND 60 DAYS. THE ACT PROTECTS THE POLICE AND CIVIL SERVICE FROM PROSECUTION OR CIVIL SUIT FOR ACTIONS THEY MAY HAVE PERFORMED IN THE LINE OF DUTY DURING THE EXCESSES OF 1970.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: THE RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON IS GENERALLY RESPECTED DURING PERIODS OF POLITICAL TRANQUILITY. THIS WAS NOT THE CASE DURING THE EVENTS OF

1970 AND 1974.

ARTICLE 5: THE 1970 AND 1974 EVENTS PRODUCED NUMEROUS

REPORTS THAT SOME PERSONS IN LESOTHO WERE SUBJECTED TO TORTURE OR OTHER FORMS OF DEGRADING TREATMENT OR PUNISHMENT. DURING THE 1970 PERIOD THERE WERE PUBLIC REPORTS OF NUMEROUS INCIDENTS OF DETENTION WITHOUT CHARGE, TORTURE, AND DESTRUCTION OF PROPERTY AND LIFE IN THE COUNTRYSIDE BY REGULAR AND IRREGULAR GOVERNMENT FORCES. THE JUDICIARY MAINTAINED ITS INDEPENDENCE WHILE THE GOVERNMENT ADMINISTERED PUNISHMENT UNDER EMERGENCY POWERS WITHOUT RECOURSE TO THE COURTS.

ARTICLE 8: THE JUDICIARY IN LESOTHO HAS HEARD CASES INVOLVING HUMAN RIGHTS VIOLATIONS, EVEN THOUGH THEY WERE NOT ABLE TO HALT SUCH VIOLATIONS.

ARTICLE 9: DETENTIONS MAY BE MADE UNDER THE INTERNAL SECURITY ACT, WHICH ALLOWS DETENTIONS WITHOUT CHARGE FOR UP TO 60 DAYS. NO DETAINEES ARE NOW KNOWN TO BE HELD. IN A 1975 TRIAL 40 SUPPORTERS OF THE OPPOSITION BASUTO CONGRESS PARTY (BCP) RECEIVED THREE TO FIVE YEAR SENTENCES ON CHARGES OF TREASON, SEDITION AND CONTRAVENTION OF THE INTERNAL SECURITY ACT. IN MAY 1976 THE LESOTHO APPEAL COURT SET ASIDE FOUR SENTENCES, REDUCED

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THREE, AND UPHELD THE REMAINING 33 SENTENCES. THE GOVERNMENT IS STILL CONSIDERING THE COURT'S RECOMMENDATION OF CLEMENCY.

ARTICLE 10: EXCEPT AS OUTLINED ABOVE, THE RIGHT TO A FAIR HEARING IS GENERALLY OBSERVED.

ARTICLE 11: THE RIGHT TO A FAIR TRIAL IS GENERALLY OBSERVED.

B. OTHER IMPORTANT FREEDOMS

DESPITE SPORADIC VIOLATIONS OF OTHER HUMAN RIGHTS, LESOTHO IS FREE OF RACIAL DISCRIMINATION, RESTRICTIONS ON MOVEMENT, RELIGION AND TO A CERTAIN DEGREE, SPEECH. THE RUDIMENTARY MEDIA OF LESOTHO IS STRONGLY GOVERNMENT INFLUENCED.

IV. OTHER HUMAN RIGHTS REPORTING

AN AMNESTY INTERNATIONAL REPRESENTATIVE ATTENDED THE TRIALS OF THE PERSONS CHARGED AS A RESULT OF THE JANUARY

1974 ABORTIVE COUP ATTEMPT AND PROVIDED RELIEF ASSIST-
ANCE TO THE FAMILIES OF THE IMPRISONED. IT PROTESTED
THE JANUARY 1976 RE-DETENTION OF THE FORMER BCP SECRETARY-

DAYS IMPRISONMENT. HE WAS GIVEN A FINAL RELEASE SHORTLY
THEREAFTER.

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FREEDOM HOUSE RATES LESOTHO AS "PARTLY FREE." ROBINSON

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